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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference PA13381 1/PCT | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) | |
| International application No. PCT/IB 03/04051 | International filing date (day/month/year) 19.09.2003 | Priority date (day/month/year) 19.09.2002 |
| International Patent Classification (IPC) or both national classification and IPC A61F2/42 | | |
| Applicant DE VILLIERS, Malan | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

| | |
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| Date of submission of the demand 15.04.2004 | Date of completion of this report 09.08.2004 |
| Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Ceccarelli, D Telephone +49 89 2399 2156  |

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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IB 03/04051**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-14 as originally filed

Drawings, Sheets

1/8-8/8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
 - ☐ the language of publication of the international application (under Rule 48.3(b)).
 - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority in written form.
 - ☐ furnished subsequently to this Authority in computer readable form.
 - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/B 03/04051**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-14 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-14 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-14 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IB 03/04051

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The present application relates to an arthroplasty implant.

The closest prior art is represented by document WO01/03613 (D1), which discloses a first component with a concave surface (204, figure 5), a second component with a convex surface (200, figure 5), an intermediate component with convex and concave surfaces (23, figure 5) and means for preventing the intermediate component from separating laterally from the second component (16, figure 5). Reference is made also to figure 6, where the three components are more clearly shown.

The subject-matter of claim 1 differs from the disclosure of document D1 in that the surfaces of the three components are so arranged that a sliding movement to allow articulation can take place between the intermediate component and the first and second components respectively.

This feature improves the flexibility of employment of the device and increases its life expectancy.

No available prior art documents show an intermediate component which can slide with respect to first and second components as claimed in claim 1.

The subject matter of claim 1 and its dependent claims 2-14 is therefore considered to meet the requirements for novelty and inventive step (Article 33(2) and (3) PCT).

2. Enclosed document

| Application No Patent No | Publication date (day/month/year) | Filing date (day/month/year) | Priority date (valid claim) (day/month/year) |
|-----------------------------|--------------------------------------|---------------------------------|---|
| WO02/089701 | 14.11.2002 | 03.05.2002 | 04.05.2001 |

is considered to be novelty destroying for the subject-matter of at least claim 1 (see figure 6a, in particular) and can become relevant in the regional or national phase of the present application (see Rule 64.3 PCT).

3. The claims do not contain **reference signs** to the figures (Rule 6.2(b) PCT).

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**INTERNATIONAL PRELIMINARY
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International application No. PCT/IB 03/04051

Claim 1 is not in the appropriate **two part form** over document D1 (Rule 6.3(b) PCT). Document D1 has not been cited in the description (Rule 5.1(a)(ii) PCT).

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